

**Killarnee Civil & Concrete Contractors Pty Ltd  
Killarnee Contracting Pty Ltd  
Killarnee Equipment Holdings Pty Ltd  
(All Administrators Appointed)  
(Referred to as “the Companies”)**

**Concurrent Second Meeting of Creditors**

**Tuesday, 7 October 2014**

# Procedural Matters

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Martin Jones, Darren Weaver and Ben Johnson of Ferrier Hodgson were appointed as joint and several voluntary administrators of the Companies on Monday, 1 September 2014.

## Procedural Matters:

- Concurrent Second meeting of creditors.
- Notice of meeting.
- Admission of proxies for voting purposes.
- Purpose of meeting.
- Determination of Quorum.
- Voting and resolutions.

## Purpose of this Meeting

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- Receive Administrators Report for each individual company
- For creditors to determine the future for each of the individual Companies:
  - (i) the meeting be adjourned for up to forty-five (45) business days; or
  - (ii) the company execute a Deed of Company Arrangement; or
  - (iii) the company be wound up; or
  - (iv) the Administration should end.

# Declaration of Independence, Relationships and Indemnities

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- Declaration of independence, relationships and indemnities was enclosed in the first circular to creditors dated 2 September 2014.
- Appointment referred to us by Andrew Birch of Vantage Performance. From time to time we are referred jobs from company accountants / business advisors . We do not believe that this relationship results in conflict.
- Met with the Director prior to our appointment to provide preliminary advice on finance position and, sale and restructure alternatives. We not believe that this meeting affects our independence.
- Within the preceding two years we have had a relationship with Westpac Banking Corporation, the secured creditors of the Group. Do not believe that this relationship is conflict of interest of duty.
- No indemnities provided.

## Events since our appointment

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Date	Event
01- Sep -14	BSA entered into by Directors Administrators appointed at 11.30pm
10- Sep -14	First Meeting of Creditors held. Appointment of Administrators ratified. No committee of creditors was formed.
26- Sep -14	Report to creditors issued.
07- Oct -14	Second meeting of creditors held.

# Administrators Report Highlights/Update

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The Administrators Report (including the Remuneration Report) pursuant to Section 439A of the Act for each of the Company's in Administration was issued to creditors on 26 September 2014.

The report includes:

- Trading history of the company, and causes of failure;
- Summary of assets and liabilities (as per the Director's statement and our comments where applicable);
- Statutory Investigations and preliminary findings;
- Explanation of options available to creditors, and potential returns under each option;
- Recommendation of the Administrators;
- Explanation of fees and costs incurred to date, and estimates of future remuneration.

- Administrators assumed control of the Companies' business upon appointment with attendance at the company's premises in Osborne Park and Karratha, WA. Trading operations continued after the appointment of Administrators with appropriate controls.
- Engaged with Centrals Systems to firm up the terms and conditions of the Business Sale Agreement ("BSA").
- Liaised with the secured creditors of the Companies and provided them with an overview of the Companies asset/liability position and also a preliminarily cash-flow forecast.
- Engaged valuers to catalogue and assess the values of the Companies' assets.

## VA preliminary view of company failure, a combination of:

- Lack of adequate working capital to bridge disputes in respect to contract performance;
- The inability to manage the on-going outstanding taxation commitments and a general emphasis on turnover, not profit; and
- Unfavourable market conditions, slowdown in energy, minerals and resources construction relation activity.



## Preliminary investigations reveals:

- KCCC may have been insolvent from as early as 30 June 2013 and KEH may have been insolvent from 30 June 2014. We believe that KCPL became insolvent as a result of our appointment over KCCC.
- we have identified payments estimated \$5.85M which may potentially be voidable as unfair preferences. Further investigations will need to be undertaken in order to ultimately determine whether the payments will result in any unfair preference payment claims being made.
- no other voidable transactions likely to generate a return for external creditors;
- the company kept adequate books and records;
- further investigation (with inherent costs) would be required to develop any potential claims. Creditors should be aware that recovery of such claims is never a certain process and may involve litigation, which can be both time consuming and costly.

## Sale of business

Date	Key events
1 September 2014	KCCC / The Company (First Seller), KEH (Second Seller) and KCPL (Third Seller) was entered into a BSA with Central System
2 September 2014	KCCC Administrators entered into a Limited Recourse Facility with Central Systems pursuant to which Central Systems would fund payment of wages and financial commitments required by the Administrators in continuing the contracts the subject of the BSA.
5 September 2014	Deed of Variation of the BSA entered into which extended the terms of the conditions precedent from 8 September 2014 to 15 September 2014 and provided for the Administrators to replace director of KCCC, KEH and KCPL as the negotiating representative for the sellers. The variation also provided for the repayment of the limited recourse loan advances to be repayable from cash received from revenue generated by trading in September 2014.
15 September 2014	Second Deed of Variation entered into which provided for an extension of the terms of the conditions precedent from 15 September 2014 to 19 September 2014 and some initial clarification of the definition of assets subject to the BSA and the sellers' address for notices under the BSA.
19 September 2014	Third Deed of Variation entered into which provided for an extension of the terms of the conditions precedent from 19 September 2014 to 30 September 2014.
23 September 2014	Assignment Agreement entered into between KCCC, Central Systems and CB&I which provides for the assignment of the CB&I contract with an effective date no later than 3 October 2014.

## Options available for creditors

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- Our preliminary investigations/analysis shows that the companies are insolvent, and there is no valid reason why control of the Companies should revert back to their directors.
- A DOCA Proposal has been received from the director of the Companies, however we consider that the proposed DOCA does not comply with section 25.6.6 of the Australian Restructuring Insolvency & Turnaround Association Code of Professional Practise because the DOCA does not (and we consider that the Companies circumstances do not presently) allow for a provision of a reliable estimate of the return to creditors and the likely timing of such returns versus a liquidation scenario.
- In a liquidation scenario, the Liquidator would be able to pursue claims for insolvent trading and voidable transactions, however likely returns are unable to be determined with any accuracy.

## Recommendation to Creditors

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The Administrators report included a recommendation that creditors should resolve to **adjourn the second meeting of creditors for a period not exceeding forty-five (45) business days to allow for:**

- Complete the terms of the BSA and conduct a more detailed analysis of the estimated assets available (if any) to the company after the satisfaction of the Bank's debt and associated fees and charges;
- Ascertain the ultimate amount recoverable from assets subject to circulating charge, i.e. debtors invoices and retention amounts including ascertaining the extent of priority claims by employees;
- Make further enquiries as to Directors' ability to repay any claims brought against him; and
- Report back to creditors with sufficient information to accurately determine whether entering into a DOCA provides a better return to creditors as compared to an immediate winding-up of the Company.

# Questions and Discussions

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- All questions to be directed to Chairman.
- When asking a question, please clearly state your name and the name of the company or creditor you represent.

# Resolutions - overview

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- To fix the remuneration of the Administrators and Deed Administrators or Liquidators for each of the Companies.
- Future of the Companies’:

For each of the individual Companies

- i. Whether the Company should enter into the deed of company arrangement as proposed.
  - ii. Whether the Company should be wound up.
  - iii. Whether the administration should end.
- That the Meeting be adjourned for a period not exceeding forty-five(45) business days.
  - To give the Administrators of the Companies further powers in relation to Compromising Debts and Entering Agreements.
  - To consider the early destruction of the individual Companies books and records.
  - Whether a Committee of Inspection should be appointed for each individual Company.

## Remuneration - Voluntary Administrators

“That the remuneration of the Administrators, as set out in the Remuneration Request Approval Report dated 26 September 2014, for the period from 1 September 2014 to 21 September 2014 be fixed in the amount of \$(as read) (plus GST), and may be paid.”

“That the remuneration of the Administrators, as set out in the Remuneration Request Approval Report dated 26 September 2014, for the period from 22 September 2014 to 7 October 2014 be fixed at the Ferrier Hodgson scale of rates up to a maximum amount of \$(as read) (plus GST) but subject to upward revision by resolution of creditors, or the Committee of Creditors and that the Administrators be authorised to make monthly payments on account of such remuneration.”

“That the meeting be adjourned for a period up to 45 business days.”



## Next Key Steps

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- If meeting is adjourned for a period not exceeding 45 business days
  - Administrators continue to complete terms of the BSA and interrogation of the Company's records with view to provide a more detail analysis of returns to creditors.
  - Supplementary Report to be issued to creditors five (5) business days before the reconvened meeting.
  - Reconvened meeting to decide Company's future be held on or before 9December 2014.

## **Close of Meeting**

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**Thank you for your attendance.**

**Any further queries may be directed to the Administrators' office in Perth. Our contact details are below:**

**Ferrier Hodgson**

**Level 28, 108 St Georges Terrace**

**Perth, WA 6000**

**Telephone: (08) 9214 1444**

**Facsimile: (08) 9214 1400**

**Contact: Nirav Shah or William Hulmes**

Ferrier  
Hodgson

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